IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA, 1928

MFA.No. 565 of 2002(B)

AGAINST AWARD IN OP(MV)NO.796/1995MACT, WAYANAD, KALPETTA.

APPELLANT: PETITIONER

KALLADA FATHIMA, W/O.AHMED,
KALLADA HOUSE, POST CHENNALODE,
KAVUMANNAM VILLAGE, VYTHIRI, WAYANAD DISTRICT.

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)

RESPONDENTS: RESPONDENTS

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1. P.K.ASOKAN, POTTAKULANGARA HOUSE,
POST ERAMANGALAM, BALUSSERRY, KOZHIKODE DIST.
(OWNER OF KRM-3715-JEEP).

2. K.J.GEORGE, S/O.OUSEPH,
KIDANGARAKARAN, VYTHIRI,
WYNAD DISTRICT.

3. THE UNITED INDIA INSURANCE CO.LTD.,
MAIN ROAD, KALPETTA, WAYANAD DISTRICT.

R1 BY ADV. SHRI C.VARGHESE KURIAKOSE
R3 BY ADV. SRI.SIBY MATHEW

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J

M.F.A.No.565 OF 2002

Dated, this the 21st day of March, 2007

JUDGMENT

Petitioner in O.P.(MV) No.796/1995 on the file of the Motor Accidents Claims Tribunal, Wayanad, Kalpetta is the appellant. Appeal is filed against an award passed by the Tribunal awarding compensation of Rs.12,500/- with interest 9%. Petitioner met with a road traffic accident at about 10.15 a.m. on 14.6.1995. She filed the Original Petition claiming compensation impleading owner, driver and insurer. Tribunal found that accident occurred due to the negligence of the driver and petitioner is entitled to compensation. Regarding quantum of compensation Tribunal found that petitioner is entitled to Rs.12,500/- with 9% interest. Before that an award under Section 140 of the Motor Vehicles Act was passed holding that petitioner was entitled to Rs.25,000/-. Therefore, Tribunal held that petitioner is entitled to Rs.12,500/- with 9% interest per annum from the date of petition less Rs.25,000/- paid as interim award. Challenging that award this appeal is filed.

2. Only question arising for consideration is whether petitioner is entitled to get any additional compensation. Materials on record show that petitioner sustained injuries such as superficial abrasion left forehead and fracture of right ankle. Petitioner was treated as inpatient from 14.6.1995 to 26.6.1995. Tribunal

had awarded Rs.8,000/- for pain and suffering. I am of the view that Tribunal ought to have awarded an amount of Rs.15,000/- for pain and suffering. Petitioner has produced Ext.A5 disability certificate. Tribunal rejected the disability on the ground that doctor was not examined. I am of the view that Tribunal ought to have awarded at least Rs.5,000/- on that count. Petitioner has claimed an amount of Rs.10,000/- for treatment expenses. Tribunal had awarded only Rs.5,000/- on that count. I am of the view that Tribunal ought to have awarded an amount of Rs.10,000/-. So petitioner is entitled to additional compensation of Rs.17,000/- with 7% interest from the date of claim petition.

In the result, appeal is allowed in part. Petitioner is entitled to an amount of Rs.17,000/- with 7% from the date of claim petition as additional compensation. I make it clear that this is in addition to Rs.12,500/- awarded by the Tribunal. Insurer is liable to pay the amount.

K. PADMANABHAN NAIR
JUDGE

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K.PADMANABHAN NAIR, J.

M.F.A.No.565 OF 2002

JUDGMENT

21st March, 2007.